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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FEDERAL TRADE COMMISSION,
Plaintiff,
v.
MICROSOFT CORP., et al.,
Defendants.

Case No. 3:23-cv-02880-JSC

**NON-PARTY SONY
INTERACTIVE
ENTERTAINMENT LLC'S
NOTICE OF MOTION AND
MOTION FOR
CLARIFICATION**

The Honorable Jacqueline Scott
Corley

No Hearing Date Set

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT non-party Sony Interactive Entertainment LLC (“SIE”) will, and hereby does, move this Court to clarify SIE’s time to file a statement and/or declaration in support of sealing its confidential information appearing on the parties’ forthcoming exhibit lists.

REQUESTED RELIEF

SIE requests that the Court order SIE to file its statement and/or declaration in support of sealing its confidential information appearing on the parties’ forthcoming exhibit lists by June 23, 2023.

1 Non-party Sony Interactive Entertainment LLC (“SIE”) files this motion
2 regarding the Court’s June 14, 2023 Order Re: Evidentiary Hearing on Preliminary
3 Injunction Motion (ECF 76) (the “Order”) to request clarification regarding SIE’s
4 time to submit a statement and/or declaration in support of sealing its documents on
5 the parties’ exhibit lists. SIE is a non-party that produced confidential business
6 material in connection with the FTC’s administrative proceeding against
7 Defendants. *See In re Microsoft/Activision Blizzard*, No. 9412 (F.T.C.).

8 The Order requires the parties to file a joint statement identifying each
9 party’s intended exhibits by 12pm today, June 20, 2023. The Order also provides
10 that the lists should “identify which exhibits are subject to a confidentiality
11 designation and where on the docket the Court can locate a declaration in support of
12 sealing as required by Local Rule 79-5.” Order at 2. At the time the parties’ joint
13 statement is due, non-party SIE will not yet have seen the parties’ final proposed
14 exhibit lists or have had a chance to thoroughly review those documents for its
15 confidential information, let alone have time to submit a declaration in support of
16 sealing. Accordingly, SIE requests a date from the Court by which its statement
17 and/or declaration under Local Rule 79-5 is due.

18 SIE received preliminary exhibit lists from the FTC and Defendants
19 yesterday, on June 19, 2023 (a federal holiday) and additional documents from the
20 FTC today, June 20, 2023. The parties’ preliminary lists contain 65 documents,
21 including three entire deposition transcripts (covering 4 days of depositions) of SIE
22 employees. These documents are all currently designated as confidential and total
23 over 2,000 pages. SIE requires some reasonable amount of time to properly review
24 and propose redactions to these confidential documents where possible.

25 SIE is cognizant of the accelerated pace of this proceeding and requests three
26 business days, *i.e.*, until June 23, 2023, to review the documents and submit a
27

1 statement and/or declaration in support of sealing. This is a few days less than the
2 seven days provided for by Local Rule 79-5. SIE believes this is workable, given
3 the Court's request to receive direct testimony by declaration. To the extent SIE's
4 documents will be used on cross-examination at the evidentiary hearing, SIE will be
5 prepared to inform the parties and the Court of its confidentiality needs at the
6 evidentiary hearing.

7
8 Dated: June 20, 2023

9 Respectfully submitted,

10 CLEARY GOTTlieb STEEN &
HAMILTON LLP

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